



STAFF REPORT ACTION REQUIRED

Management Agreement with Kiwanis Club of Casa Loma

Date:	May 20, 2008
To:	Executive Committee
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

Casa Loma is a key heritage landmark, premier tourist attraction, and unique special events venue. The property is owned by the City and has been operated through a license agreement by the Kiwanis Club of Casa Loma, Toronto since 1937. In July 2007, Council approved a new Strategic Vision for Casa Loma and authorized staff to negotiate a new agreement between the City and the Kiwanis. This report recommends approval of the new agreement that implements Council's vision, creates a governance structure to provide balanced representation of community and City interests, and restructures the financial arrangements to continue Casa Loma as a self-sustaining operation, while contributing to the City's capital repair obligations including the on-going exterior restoration.

This report, as reflected in the attached Management Agreement, recommends a new relationship where the Kiwanis manages the operation on behalf of the City through a new Casa Loma Board, restructured with equal participation of members appointed by the City and by the Kiwanis. The agreement also preserves some key elements of the earlier arrangement including the Garden Club Agreement, Free Access Days, and the periodic use of the facility by the Kiwanis and the City.

The effort to revitalize Casa Loma through restructuring of the management agreement and ongoing reinvestment is timely as tourism in Ontario faces challenges due to unfavourable economic circumstances.

The current agreement with the Kiwanis expires at the end of 2008 and bookings for events in 2009 and subsequent years are already being requested. It is essential that a

new agreement be put in place immediately to ensure continuity of operations and to permit revitalization of Casa Loma in tandem with the City's ongoing restoration efforts.

RECOMMENDATIONS

The City Manager recommends that Council:

1. approve the Management Agreement with the Kiwanis Club of Casa Loma, Toronto substantially in the form of Attachment 1 to this report for a term of 20 years and 6 months beginning July 1, 2008 and ending on December 31, 2028; and
2. authorize the Chief Corporate Officer to administer and manage the Management Agreement including the provision of any consents, approvals, notices, and notices of termination provided that the Chief Corporate Officer may, at any time, refer consideration of such matters (including their content) to City Council for its determination and direction.

Implementation Points

As authorized by Council by approval of Motion M20.13 at its meeting of April 28-29, 2008, the recruitment of City appointees to the Casa Loma Board is currently underway through an open, advertised process. The Civic Appointments Committee was directed by Council to submit its nominations for consideration by City Council at its June 23-24, 2008 meeting. The CAC report should be considered concurrently with this report. It is intended that the new Board will be constituted and convened in the summer of 2008.

Financial Impact

The operation of Casa Loma will continue to be self-sustaining. As part of the agreement, the accumulated chattels (valued at over \$1.3 million) currently used at Casa Loma and owned by the Kiwanis will be purchased to form part of the City assets at no direct cost to the City. Payments of \$50 thousand per year for 20 years will be provided from Casa Loma operating revenues over the term of the agreement.

The exterior restoration of Casa Loma and other major capital repairs will continue to be the City's responsibility and form part of the Economic Development, Culture and Tourism Division's 5-year capital plan. This agreement provides for revenue of \$800 thousand per year from the operation of Casa Loma to be deposited in the City's Casa Loma Capital Reserve Fund. These annual payments, indexed to inflation, are payable for 20 years as part of the Management Agreement and will be re-invested in the renewal of the Casa Loma estate. The City's 5-year capital plan already includes this \$800 thousand per year for 5 years and \$3.7 million in debt funding. It is anticipated that the capital requirements will continue at that level for the following 5 years as well.

Under the current license agreement, the Kiwanis pays approximately \$178 thousand in 2008 property taxes. Under the proposed new relationship, this new agreement is structured as a management agreement where the Kiwanis, through a joint board, will operate the facility on behalf of the City. Accordingly it is anticipated that the assessed values for all or a portion of the estate may be exempted by MPAC from payment of property taxes in future. Any amount exempted up to the equivalent of the 2008 property taxes levied and indexed by inflation will be re-invested under the terms of this agreement in making improvements to the Casa Loma program. If approved, this will result in a small reduction in property taxes to the City.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

Equity Statement

The recruitment of public members for the Board of Casa Loma is subject to the Public Appointments Policy and is an opportunity to further the City's objectives that board membership reflect the diversity of the community and in turn result in enhanced programming that appeals to a broader community.

DECISION HISTORY

A 1997 Restoration Master Plan for Casa Loma estimated that it would cost \$20 million to restore and rebuild sections of the exterior structure of the main building and the stables. The City was unsuccessful in its grant application to SuperBuild for \$8.2 million to assist with this restoration work. The City is committed to the restoration of Casa Loma and has been dedicating all the revenue received through the current licence agreement with the Kiwanis plus additional City capital funds to this purpose. The exterior restoration work began in 2003 and will be completed in 2012.

Given the deterioration of the exterior and the potential vulnerability of the operation to a decline in tourist visits to Toronto, Council directed staff, in January 2004, to undertake a review of the operation of Casa Loma. Lord Cultural Resources, a world renowned consultant specializing in development and programming of major cultural facilities, was retained by Kiwanis in 2006 to assist in shaping the Strategic Vision. Their analysis, known as the Lord Report, examined the strengths, weaknesses and potential for Casa Loma and they made several recommendations regarding the future direction for the programming of Casa Loma.

The Kiwanis has developed the Strategic Plan which is intended to set out the initial framework and financial assumptions for implementing the Strategic Vision and the recommendations of the Lord Report. Together, the Strategic Vision, the Lord Report, and the Strategic Plan set out the shared vision of the parties and the initial structure that will be used to achieve that vision.

In July 2007, Council adopted Executive Committee Item EX10.3 entitled “Casa Loma Operations and Governance”. That report recommended changes to the governance and Strategic Vision for Casa Loma. Council endorsed a continued relationship with the Kiwanis under a new collaborative arrangement where the board that oversees operations would be reconstituted to balance community and City interests. In addition, it was necessary to ensure that the financial arrangements would result in continued re-investment in Casa Loma. Council also directed that staff negotiate a new agreement with the Kiwanis Club of Casa Loma.

This report submits for approval the management agreement between the Kiwanis Club of Casa Loma, Toronto and the City of Toronto that meets Council’s stated objectives.

ISSUE BACKGROUND

At its meeting held on July 16, 17, 18 and 19, 2007, City Council adopted a vision for the operation of Casa Loma to ensure that:

- Casa Loma’s programming, curatorial focus and interpretation fully reflect its Edwardian heritage, tell the story of Toronto in that era, and reflect the imagination, energy and innovation present in Toronto in the early 20th century;
- complementary programming, heritage walks, signage and marketing create a heritage precinct that links the Casa Loma estate to Spadina Museum and the City Archives, two important City assets in the neighbourhood; and
- a refreshed visitor experience and stimulating heritage tours attract a greater number of Torontonians to the Casa Loma estate.

At the same meeting, Council authorized the City Manager and Chief Corporate Officer, in conjunction with the General Manager of Economic Development, Culture and Tourism, to negotiate and report back on a long term extension to the licence agreement with the Kiwanis Club for the operation of Casa Loma that implements Council’s vision for Casa Loma through:

- enhanced heritage programming;
- new visitor amenities;
- expanded governance through the terms of reference, structure and composition for the Kiwanis Board of Trustees to ensure balanced representation of community and City interests;
- a restructured financial arrangement that continues Casa Loma as a self-sustaining operation and maintains contributions to the exterior restoration project;
- City approval for all alterations to the building and sub-licence agreements;
- a term of up to 20 years with performance benchmarks and a full review after 3 years;
- annual progress reports to the Economic Development Committee;
- an exciting, imaginative, interpretative restoration plan with emphasis on educating and entertaining visitors; and

- the complete reinvigoration of the top floor galleries employing leading edge museum and entertainment technology that will bring life to the history and flavour of Edwardian Toronto.

COMMENTS

In order to implement Council's direction and Strategic Vision, this report recommends adoption of a new management agreement (Attachment 1). Although Council's direction speaks of a license agreement, both parties agreed that an improved model would take the form of a management agreement. The following describes the key themes of the proposed agreement.

1. COLLABORATION AND GOVERNANCE

Casa Loma, as a key tourism and heritage landmark, is a joint responsibility between the City and the Kiwanis attracting about 350,000 visitors each year. While the City of Toronto owns Casa Loma, its grounds, and the related buildings such as the Hunting Lodge and the Stables, the Kiwanis manages the castle properties as a tourism and special events facility. The City maintains the exterior and is responsible for capital repairs and replacements including the building systems and the Kiwanis maintains the interior of the castle estate, the exhibits, the grounds, and operates the parking facilities. The success of Casa Loma is dependent on how well the City and the Kiwanis work in an aligned way.

In the past the Kiwanis took sole responsibility for making key strategic decisions regarding the shape and nature of the operations through its Board of Trustees of Casa Loma comprised of Kiwanian members. That governance structure did not provide for the complementary roles of the City and the Kiwanis for the stewardship of the facility. The new Management Agreement and new vision provide an opportunity to truly reflect a collaborative governance relationship.

The Management Agreement negotiated between the Kiwanis and City staff reflects a new governance model with equal participation on a new Casa Loma Board. For the first time governance matters are addressed as a central part of the Management Agreement. The following provisions relating to governance are included in the Management Agreement:

- A new Casa Loma Board will be responsible for making decisions regarding operations, budgets and the overall implementation of the City's strategic vision for Casa Loma and will provide direction to the Chief Executive Officer. The Kiwanis cannot overturn decisions of the Board;
- The composition of the Casa Loma Board will be 7 members appointed by the Kiwanis and 7 members appointed by the City; the Mayor will appoint the Chair from among the appointed Board members on the advice of the President of the Kiwanis;

- The two Ward Councillors, the Executive Director of the Culture Division or her designate, and the Director of Real Estate Services or his designate will be ex-officio members, entitled to attend Board meetings and receive all materials to be considered. They can participate in discussion at board meetings, but will not have voting rights;
- Each voting Board member will have one vote; in the case of a tie vote on an item, the matter is defeated;
- The Board shall have full power with respect to the stewardship of all affairs of Casa Loma and no by-law or resolution passed by the Board or any other action taken by the Board requires confirmation or ratification by the board of directors of the Kiwanis in order to become valid or to bind the management of Casa Loma;
- The term of Board appointment will be 3 years;
- Quorum for the Board is a majority of the voting members;
- Decisions that are properly the purview of the Board cannot be delegated to committees or a single member of the Board;
- A dispute resolution process to deal with any controversy, claim or dispute is outlined in the Management Agreement;
- Other governance matters outlined in the agreement include conditions under which a member may be removed from the Board, including the removal of Board members should they not attend meetings for prolonged periods without permission of the Board. Further, a requirement to create policies for conflict of interest and an open and competitive procurement must be adopted within 120 days of the commencement date of the agreement.

These governance provisions in the Management Agreement must be incorporated into the by-law for the Board.

2. REVITALIZATION AND THE STRATEGIC VISION

The Management Agreement clearly outlines the commitments of both the Kiwanis and the City to the City's Strategic Vision for Casa Loma. The following are specifically detailed in the agreement:

- the City's key objectives for Casa Loma (Strategic Vision) as approved by Council in July 2007
- the Lord Report
- the Strategic Plan developed by the Kiwanis
- the Garden Club Agreement (continued from previous agreement)

- the Heritage Designation By-Law

The Lord Report was developed by the Kiwanis in conjunction with Lord Cultural Resources. The Kiwanis has developed the Strategic Plan which is intended to set out the initial framework and financial assumptions for implementing the Strategic Vision and the recommendations of the Lord Report. Together, the Strategic Vision, the Lord Report and the Strategic Plan set out the shared vision of the parties and the structure to be used to achieve that vision (the Strategic Framework). The Kiwanis acknowledges that the City is entering into this agreement for the purpose of implementing the Strategic Vision and the Kiwanis agrees to adhere to objectives and approaches set out in the agreement.

It is understood that over the term the details in this Strategic Framework might require updating from time to time, and the parties covenant to work together throughout the term to use their best efforts to ensure that the Strategic Framework may evolve when appropriate to reflect changes in circumstances. The Kiwanis acknowledges that the City's primary goal is to maintain Casa Loma as a vibrant tourist attraction by offering interesting programs, events and activities and by varying and up-dating the approach from time to time. The qualities of the attraction, as well as the level of community and tourist participation, are as important to the City as the revenues generated through this agreement.

The City and the Kiwanis both have made commitments over the last few years to work together towards realizing the new Strategic Vision for Casa Loma. The City has contributed by committing significant capital funds to the restoration of the castle's exterior. The Kiwanis in turn has committed to the Strategic Vision by developing an implementation plan that will be used on a go-forward basis over the next decade.

As part of the Strategic Vision, the original Hunting Lodge, which was formerly utilized as a residence, will now be returned to the operations of the Casa Loma estate and will take its place as part of the Casa Loma heritage and tourism landmark.

3. REINVESTMENT IN CASA LOMA

The funding model on a go-forward basis for Casa Loma provides for a stable source of capital funds to implement the Strategic Vision in order to revitalize Casa Loma. The elements include:

- Annual payments to the City of \$800 thousand paid out of Casa Loma operating revenues will be placed in the Casa Loma Capital Reserve Fund administered by the City and used to fund the restoration and capital repairs. The City's 5-year capital plan already includes this \$800 thousand per year and \$3.7 million in debt financing and it is anticipated that a similar amount will be required for the following 5-year period;

- Establishment of a Casa Loma Improvement Fund (CLIF) to be held by the Kiwanis and funded out of net revenue from Casa Loma operations and admission ticket surcharges. The CLIF will be used to fund improvements including enhanced visitor amenities, special interior maintenance projects, technology, capital asset acquisitions such as period artefacts, programming and marketing for special events and exhibits. The CLIF is not a general reserve fund and can only be utilized to fund a revenue shortfall in the rare circumstance where no other method of covering a revenue shortfall is available.
- Acquisition by the City of the artefacts, equipment and intellectual property including trademarks acquired by the Kiwanis over the years that are essential to operating Casa Loma. Annual payments of \$50 thousand over the 20-year term of the Management Agreement will be paid from the net revenues of Casa Loma in order to ensure that the City owns all aspects of the physical assets of the Casa Loma estate. Schedule G to the Management Agreement, when executed, will list the items included. The office, catering and garden equipment, castle fixtures, and props, sets and costumes were valued at over \$630 thousand and the art and artefacts were valued at approximately \$754 thousand;
- The Kiwanis Club of Casa Loma has taken the direction of the Lord Report to heart and has proposed a plan to be implemented through 2013 to improve Casa Loma as a tourist and special events destination. Their 5-year capital plan has an estimated preliminary budget of \$4.4 million in capital expenditures. The project will provide for a series of cultural and heritage improvements, visitor amenity improvements, and interior restoration. For the period 2014 to 2018, further improvements are envisioned including the creation of new space for temporary exhibits, additional exhibits and special events, enhancements to interpretive signage throughout the Casa Loma district and additional improvements to exhibits and visitor amenities.

Casa Loma may be eligible for a property tax exemption given it is owned by the City and operated on behalf of the City. This matter will be investigated jointly among the Kiwanis, City staff and the Municipal Property Assessment Corporation (MPAC) once the Management Agreement is executed. Upon qualification for property tax exemption, the current property tax equivalent amount of about \$178 thousand per year will be placed in the CLIF for reinvestment into the operational and capital needs of Casa Loma.

The Management Agreement also requires both parties to act as a prudent and diligent building owner in carrying out their respective on-going maintenance responsibilities for Casa Loma.

4. STEWARDSHIP AND OVERSIGHT

Included in the Management Agreement are incentives and requirements to ensure each party lives up to its obligations and responsibilities. They include:

- payment of a management fee to Kiwanis of \$250,000 annually. In turn the Kiwanis uses the earned fees for charitable activities they sponsor;
- a review by the City after three years to ensure that the Management Agreement is working effectively;
- annual reporting to the City including audited financial statements and an updated Business Plan and explanation of how it implements the Strategic Vision;
- in undertaking any major Request for Proposals, the Casa Loma Board will consult with the City regarding the RFP's scope and content and will undertake an open and competitive procurement process;
- the Board will develop procedures designed to consult with and involve members of the public in matters relating to the operation of Casa Loma and at a minimum will arrange one opportunity every two (2) years for the public to be invited to attend at Casa Loma free of charge; and
- rights of audit by the City Auditor regarding compliance with the Management Agreement, including its financial requirements.

5. TRANSITIONING

The proposed term of the Management Agreement is 20 years and 6 months beginning July 1, 2008 and ending December 31, 2028. It is important for this new relationship to take effect as soon as possible in order to implement the new Strategic Vision that both parties support. From an operations perspective, stability is essential in securing future bookings and future business relationships with suppliers.

Since part of the fiscal year has already passed, it is proposed that the financial payments set out in the Management Agreement not take effect until the beginning of the next fiscal year, January 1, 2009. To accommodate this mid-year transition, appropriate accounting adjustments will be made to the budgets and financial reports.

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SIGNATURE

Shirley Hoy, City Manager

ATTACHMENTS:

Attachment 1: Management Agreement for Operation of Casa Loma